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STATE OF MAINE  
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY  
LAND USE PLANNING COMMISSION  
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GREENVILLE, MAINE  
04441

WALTER E. WHITCOMB  
COMMISSIONER

# PERMIT

## AMENDMENT B TO DEVELOPMENT PERMIT DP 4411

The staff of the Maine Land Use Planning Commission (hereinafter the Commission), after reviewing the application and supporting documents submitted by Mike Theriault Construction, LLC for Amendment B to Development Permit DP 4411, finds the following facts:

1. Applicant: Mike Theriault Construction, LLC  
Attn: Mike Theriault  
PO Box 731  
Greenville, Maine 04441
2. Date of Completed Application: July 8, 2015
3. Location of Proposal: Moosehead Junction Township, Piscataquis County  
Taxation Plan 04, Lot 1.8 (Lot 12 of Subdivision Permit SP 3237)
4. Zoning: (D-CI) Commercial Industrial Development Subdistrict
5. Lot Size: 2.72 acres

### Existing Conditions:

6. The applicant's site is currently developed with three 30ft. by 130ft. Commission approved self-storage buildings. The site is partially filled and graded with gravel for access and parking associated with the self-storage buildings. The remainder of the site is undeveloped and vegetated with herbaceous, scrub shrub and woody vegetation. There are mature trees along the rear and to the east side of the lot. Based on a review of an aerial photo with tax overlay, the 2.72 acre lot appears to be developed with less than 30% impervious surfaces. Access to the existing storage buildings is from Moosehead Industrial Park Road.

### Background

7. The lot is located within a Commercial Industrial Development Subdistrict and is shown as Lot 12 on the 16 Lot Commission approved Subdivision SP 3237 issued to RA Cummings Inc., in May of 1993. A Certificate of Compliance was issued for the Subdivision in September 1994.

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8. On July 10, 1997, John and Candice Morrell received Commission approval for Development Permit DP 4411, which authorized the construction of three 30ft. by 130ft. self-storage buildings on slab foundations.
9. On June 26, 2002, John and Candice Morrell received Commission approval for Amendment A to Development Permit DP 4411, which allowed the completion of the third 30ft. by 130ft. self-storage building originally approved in 1997.

### **Project Summary**

10. On May 12, 2015, the applicant entered a purchase and sales agreement with John and Candice Morrell for the 2.72 acre lot with three commercial self-storage buildings.
11. On July 8, 2015, the applicant submitted a permit application for the proposed construction of a 40ft. by 130ft. fourth commercial self-storage building with a slab foundation on the 2.72 acre lot. The applicant calculated the total impervious coverage, which includes the existing and proposed self-storage buildings and the fill associated with parking and access drives through the facility, to be approximately 52,200 square feet.

### **Commission Review Criteria**

12. Under provisions of Section 10.21A,3,c(2) of the Commission's Land Use Districts and Standards, Any commercial and industrial uses may be allowed within Commercial Industrial Development (D-CI) Subdistricts upon issuance of a permit from the Commission pursuant to Title 12 §685-B, and subject to the applicable requirements set forth in Sub-Chapter III.
13. Under the provisions of Sub-Chapter III, Section 10.26, A, 2 of the Commission's Land Use Districts and Standards; the minimum lot size required for commercial, industrial, and other non-residential uses involving one or more buildings is 40,000 square feet.
14. Under the provisions of Sub-Chapter III, Section 10.26, D, 2 of the Commission's Land Use Districts and Standards; the minimum setbacks for commercial structures, including parking areas is 75 feet from the traveled portion of the nearest roadway and 25 feet from the side and rear property lines.
15. Under the provisions of Sub-Chapter III, Section 10.26, E, 4 of the Commission's Land Use Districts and Standards; for lots in a D-CI Subdistrict that are not within 250 feet of a major flowing water body or body of standing water 10 acres or greater in size, the maximum lot coverage shall be 50% for all uses involving one or more buildings. Coverage shall be calculated by determining the percent of the lot covered by all structures including paved driveways, sidewalks, parking lots and other impervious structures.
16. The facts are otherwise as represented in Amendment B to Development Permit application DP 4411, and supporting documents.

**Based upon the above Findings, the staff concludes that:**

1. In accordance with Sections 10.21A,3,c(2) of the Commission's Land Use Districts and Standards, the proposed commercial self-storage building is an allowed use in a (D-CI) Commercial Industrial Development Subdistrict.
2. In accordance with Sub-Chapter III, Section 10.26, A, 2 of the Commission's Land Use Districts and Standards, the lot is at least 40,000 square feet.
3. In accordance with Sub-Chapter III, Section 10.26, D, 2 of the Commission's Land Use Districts and Standards; the proposed self-storage building meets the minimum setbacks for commercial structures, including 75 feet from the traveled portion of the nearest roadway and 25 feet from the side and rear property lines.
4. In accordance with Sub-Chapter III, Section 10.26, E of the Commission's Land Use Districts and Standards; the proposed commercial self-storage building, in combination with the three previously constructed commercial self-storage buildings and the existing and proposed gravel access ways, do not exceed the 50% maximum lot coverage.
5. If carried out in compliance with the Conditions below, the proposal will meet the Criteria for Approval, section 685-B(4) of the Commission's Statutes, 12 M.R.S.A.

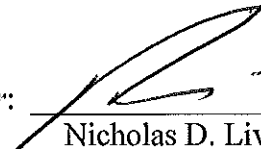
**Therefore, the staff approves the application of Mike Theriault with the following Conditions:**

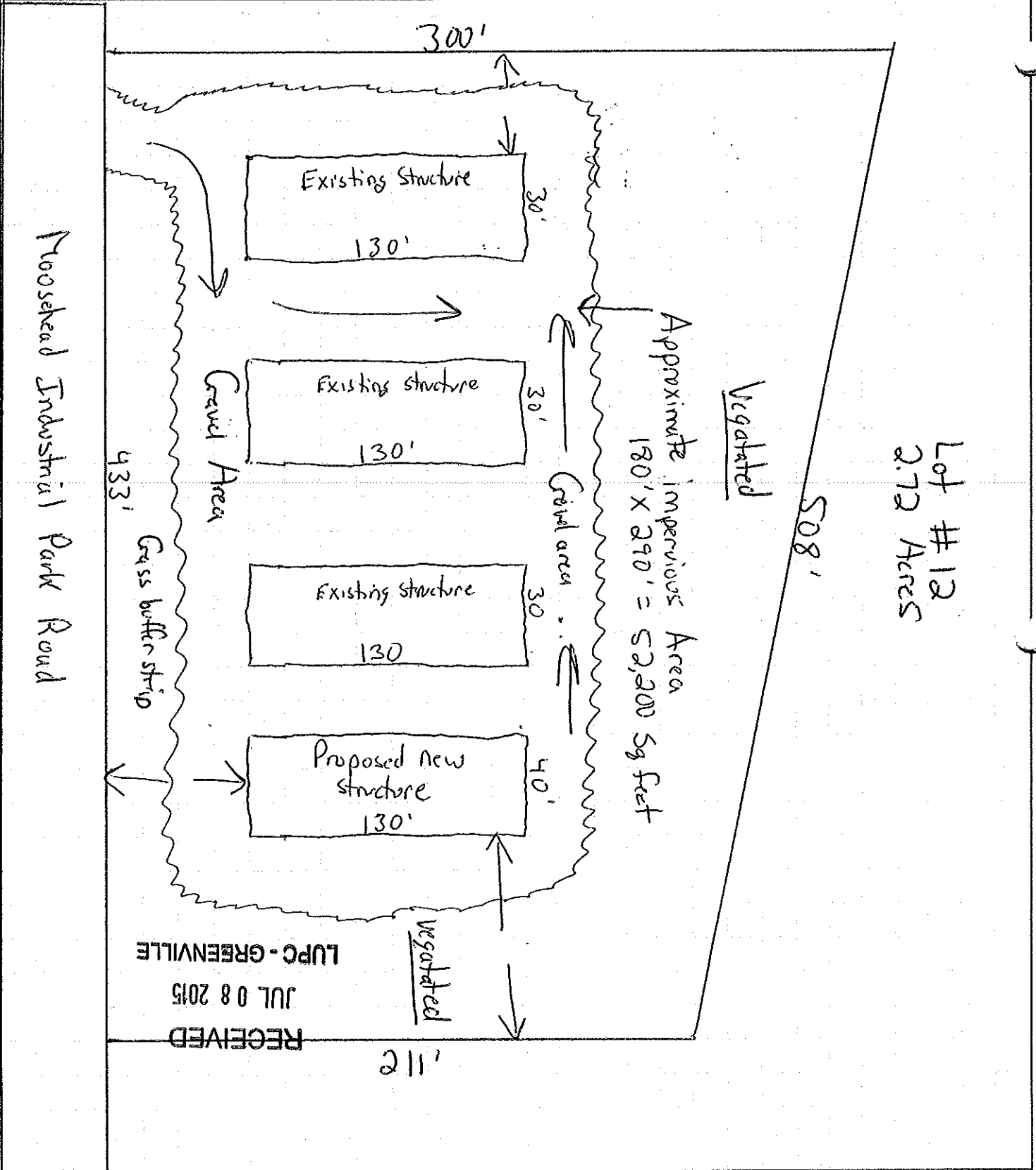
1. The Standard Conditions for Development Permits revised 04/2004, a copy of which is attached.
2. The General Standards for Clearing (ver. 10/00), a copy of which is attached. Clearing should be kept to the minimum required to safely construct and maintain the telecommunication tower site.
3. The General Standards for Filling and Grading with Guidelines for Vegetative Stabilization (ver. 10/00), a copy of which is attached.
4. All areas of disturbed soil must be promptly seeded and stabilized.
5. Should any significant erosion or sedimentation occur during the construction or maintenance of the facility, including repairs to the access road network, the applicant shall contact the Land Use Planning Commission immediately, notifying it of the problem and describing all proposed corrective measures.
6. The permitted structure must maintain a minimum set back of at least 75 feet from the road and 25 feet from the property boundary lines.
7. All debris generated as a result of the permitted activities shall be removed from the lot and disposed of in a proper manner, in compliance with applicable state and federal solid waste laws and rules.

8. The permittee shall comply with all relevant conditions of Subdivision Permit SP 3237 and subsequent amendments.

This permit is approved upon the proposal as set forth in the application and supporting documents except as modified in the above stated conditions, and remains valid only if the permittee complies with all of these conditions. Any variation from the application or the conditions of approval is subject to prior Commission review and approval. Any variation undertaken without Commission approval constitutes a violation of Land Use Planning Commission law. In addition, any person aggrieved by this decision of the staff may, within 30 days, request that the Commission review the decision.

DONE AND DATED AT GREENVILLE, MAINE, THIS TWENTYFIRST DAY OF JULY, 2015.

for:  NICHOLAS D. LIVESAY  
Nicholas D. Livesay, Executive Director





**STATE OF MAINE**  
**DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY**  
**LAND USE PLANNING COMMISSION**  
**22 STATE HOUSE STATION**  
**AUGUSTA, MAINE 04333-0022**

**STANDARD CONDITIONS OF APPROVAL  
FOR ALL DEVELOPMENT PERMITS**

1. The permit certificate must be posted in a visible location on your property during development of the site and construction of all structures approved by this permit.
2. This permit is dependent upon and limited to the proposal as set forth in the application and supporting documents, except as modified by the Commission in granting this permit. Any variation therefrom is subject to the prior review and approval of the Maine Land Use Planning Commission. Any variation from the application or the conditions of approval undertaken without approval of the Commission constitutes a violation of Land Use Planning Commission law.
3. Construction activities authorized in this permit must be substantially started within two (2) years of the effective date of this permit and substantially completed within five (5) years of the effective date of this permit. If such construction activities are not started and completed within this time limitation, this permit shall lapse and no activities shall then occur unless and until a new permit has been granted by the Commission.
4. The recipient of this permit ("permittee") shall secure and comply with all applicable licenses, permits, and authorizations of all federal, state and local agencies including, but not limited to, natural resources protection and air and water pollution control regulations and the Subsurface Wastewater Disposal Rules of the Maine Department of Environmental Protection and the Maine Department of Human Services.
5. Setbacks of all structures, including accessory structures, from waterbodies, roads and property boundary lines must be as specified in conditions of the permit approval.
6. In the event the permittee should sell or lease this property, the buyer or lessee shall be provided a copy of the approved permit and advised of the conditions of approval. The new owner or lessee must contact the Land Use Planning Commission to have the permit transferred into his/her name and to reflect any changes proposed from the original application and permit approval.
7. The scenic character and healthful condition of the area covered under this permit must be maintained. The area must be kept free of litter, trash, junk cars and other vehicles, and any other materials that may constitute a hazardous or nuisance condition.
8. The permittee shall not advertise Land Use Planning Commission approval without first obtaining Commission approval for such advertising. Any such advertising shall refer to this permit only if it also notes that the permit is subject to conditions of approval.
9. Once construction is complete, the permittee shall notify the Commission that all requirements and conditions of approval have been met. The permittee shall submit all information requested by the Commission demonstrating compliance with the terms of the application and the conditions of approval. Following notification of completion, the Commission's staff may arrange and conduct a compliance inspection.

*Administrative Policy Revised 04/04*

## B. VEGETATION CLEARING

Vegetation clearing activities not in conformance with the standards of this section may be allowed upon issuance of a permit from the Commission provided that such types of activities are allowed in the subdistrict involved. An applicant for such permit shall show by a preponderance of the evidence that the proposed activity, which is not in conformance with the standards of this section, shall be conducted in a manner which produces no undue adverse impact upon the resources and uses in the area.

The following requirements shall apply to vegetation clearing activities for any purpose other than road construction, road reconstruction and maintenance, wildlife or fishery management, forest management, agricultural management, public trailered ramps or hand-carry launches:

1. A vegetative buffer strip shall be retained within:
  - a. 50 feet of the right-of-way or similar boundary of any public roadway,
  - b. 75 feet of the normal high water mark of any body of standing water less than 10 acres in size, or any tidal water or flowing water draining less than 50 square miles, and
  - c. 100 feet of the normal high water mark of a body of standing water 10 acres or greater in size or flowing water draining 50 square miles or more.
2. Within this buffer strip, vegetation shall be maintained as follows:
  - a. There shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown. However, a footpath is permitted, provided it does not exceed six (6) feet in width as measured between tree trunks, and, has at least one bend in its path to divert channelized runoff.
  - b. Selective cutting of trees within the buffer strip is permitted provided that a well-distributed stand of trees and other natural vegetation is maintained.

For the purposes of this section a "well-distributed stand of trees" adjacent to a body of standing water 10 acres or greater in size shall be defined as maintaining a rating score of 24 or more in a 25-foot by 50-foot rectangular area as determined by the following rating system.

Near other water bodies, tributary streams and public roadways a "well-distributed stand of trees" shall be defined as maintaining a rating score of 16 or more per 25-foot by 50-foot (1250 square feet) rectangular area as determined by the following rating system.

Diameter of Tree at 4-1/2 feet Above Ground Level (inches)	Points
2.0 to < 4.0	1
4.0 to < 8.0	2
8.0 to < 12.0	4
12.0 +	8

Table 10.27,B-1. Rating system for a well-distributed stand of trees.

The following shall govern in applying this rating system:

- (1) The 25-foot x 50-foot rectangular plots shall be established where the landowner or lessee proposes clearing within the required buffer;
- (2) Each successive plot shall be adjacent to but not overlap a previous plot;
- (3) Any plot not containing the required points shall have no vegetation removed except as otherwise allowed by these rules;
- (4) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by these rules; and
- (5) Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of this section, "other natural vegetation" is defined as retaining existing vegetation under 3 feet in height and other ground cover and retaining at least 5 saplings less than 2 inches in diameter at 4½ feet above ground level for each 25-foot by 50-foot rectangular area. If 5 saplings do not exist, the landowner or lessee may not remove any woody stems less than 2 inches in diameter until 5 saplings have been recruited into the plot. In addition, the soil shall not be disturbed, except to provide for a footpath or other permitted use.

- c. In addition to Section 10.27,B,2,b above, no more than 40% of the total basal area of trees 4.0 inches or more in diameter, measured at 4½ feet above ground level, may be removed in any ten (10) year period.
  - d. Pruning of live tree branches is prohibited, except on the bottom 1/3 of the tree provided that tree vitality will not be adversely affected.
  - e. In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings in excess of 250 square feet, these openings shall be established with native tree species.
3. At distances greater than one hundred (100) feet, horizontal distance, from the normal high water mark of a body of standing water greater than 10 acres, no more than 40% of the total basal area of trees four inches or more in diameter, measured at 4½ feet above ground level, may be removed in any ten (10) year period. In no instance shall cleared openings exceed, in the aggregate, 10,000 square feet, including land previously cleared. These provisions apply to areas within 250 feet of all bodies of standing water greater than ten (10) acres, and to the full depth of the P-AL zone. This requirement does not apply to the development of uses allowed by permit.
  4. Cleared openings legally in existence as of June 7, 1990 may be maintained, but shall not be enlarged except as permitted by these regulations.
  5. When revegetation is required: (i) in response to violations of the vegetation standards set forth in Section 10.27,B,1 through 4; (ii) to address the removal of non-native invasive species of vegetation; (iii) as a mechanism to allow for development by permit that exceeds the vegetation standards of Section 10.27,B or the cleared opening standards of Section 10.27,Q,1,Table A,(4), including removal of vegetation in conjunction with a shoreline stabilization project; or (iv) as part of a mitigation plan for clearing associated with a recreational lodging facility, the revegetation must comply with the following requirements.



- a. The property owner must submit a revegetation plan, prepared with and signed by a qualified professional (examples include: arborist, forester, landscape architect, U.S.D.A. Natural Resources Conservation Service), that describes revegetation activities and maintenance. The plan must include a scaled site plan depicting where vegetation was, or is to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.
- b. Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the pre-existing vegetation, except where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density comparable to the pre-existing vegetation, in which case revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed. When part of a mitigation plan, revegetation must occur along the same segment of shoreline, road, or other resource affected by proposed uses or development, and at a density and configuration comparable to other naturally occurring forests on the site or in the vicinity.
- c. Revegetation activities must meet the following requirements for trees and saplings:
  - (1) All trees and saplings removed must be replaced with native noninvasive species;
  - (2) Replacement vegetation must at a minimum consist of saplings;
  - (3) If more than three trees or saplings are planted, then at least three different species shall be used;
  - (4) No one species shall make up 50% or more of the number of trees and saplings planted;
  - (5) If revegetation is required for a shoreline stabilization project, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or sapling must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and
  - (6) A survival rate of at least 80% of planted trees or saplings is required for a minimum five years period from the time of planting. Replanting of trees or saplings that did not survive does not trigger a new five year period.
- d. Revegetation activities must meet the following requirements for woody vegetation and other vegetation under three feet in height:
  - (1) All woody vegetation and vegetation under three feet in height must be replaced with native noninvasive species of woody vegetation and vegetation under three feet in height as applicable;
  - (2) Woody vegetation and vegetation under three feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
  - (3) If more than three woody vegetation plants are to be planted, then at least three different species shall be planted;
  - (4) No one species shall make up 50% or more of the number of planted woody vegetation plants; and

- (5) Survival of planted woody vegetation and vegetation under three feet in height must be sufficient to remain in compliance with the standards contained within this chapter for a minimum of five years from the time of planting. Replanting of trees or saplings that did not survive does not trigger a new five year period.
- e. Revegetation activities must meet the following requirements for ground vegetation and ground cover:
  - (1) All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
  - (2) Where necessary due to a lack of sufficient ground cover, an area must be supplemented with a minimum four inch depth of leaf mulch and/or bark mulch to prevent erosion and provide for effective infiltration of stormwater; and
  - (3) Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within Section 10.27,B for a minimum of five years from the time of planting.
- f. The applicant may propose, and the Commission may approve or require, variations from the standards in Section 10.27,B,5,c through e if necessary to achieve effective buffering. The Commission may exempt an individual, whether an applicant or violator, from the requirement that the revegetation plan be prepared by a qualified professional in accordance with Section 10.27,B,5,a, when the proposed revegetation is routine and would not affect a particularly sensitive resource.

## F. FILLING AND GRADING

The following requirements for filling and grading shall apply in all subdistricts except as otherwise provided herein.

Filling and grading activities not in conformance with the standards of this section may be allowed upon issuance of a permit from the Commission provided that such types of activities are allowed in the subdistrict involved. An applicant for such permit shall show by a preponderance of the evidence that the proposed activity, which is not in conformance with the standards of this section, shall be conducted in a manner which produces no undue adverse impact upon the resources and uses in the area.

These standards do not apply to filling or grading activities which constitute forest or agricultural management activities, the construction, reconstruction and maintenance of roads, or the construction of public trailered ramps, hand-carry launches, or driveways. Such activities are separately regulated.

1. Within 250 feet of water bodies and wetlands, the maximum size of a filled or graded area, on any single lot or parcel, shall be 5,000 square feet. This shall include all areas of mineral soil disturbed by the filling or grading activity; and
2. Beyond 250 feet from water bodies, the maximum size of filled or graded areas, as described above, shall be 20,000 square feet, except that there shall be no limit to the size of filled or graded areas in M-GN subdistricts which are greater than 250 feet from water bodies and wetlands. In such M-GN subdistrict areas, the provisions of Section 10.27,F,4 and 6 shall apply; and
3. Clearing of areas to be filled or graded is subject to the clearing standards of Section 10.27,B; and
4. Imported fill material to be placed within 250 feet of water bodies shall not contain debris, trash, rubbish or hazardous or toxic materials. All fill, regardless of where placed, shall be free of hazardous or toxic materials; and
5. Where filled or graded areas are in the vicinity of water bodies or wetlands such filled or graded areas shall not extend closer to the normal high water mark of a flowing water, a body of standing water, tidal water, or upland edge of wetlands identified as P-WL1 subdistrict than the distance indicated in the following table:

Average Slope of Land Between Exposed Mineral Soil and Normal High Water Mark or Upland Edge (Percent)	Width of Strip Between Exposed Mineral Soil and Normal High Water Mark or Upland Edge (Feet Along Surface of the Ground)
10 or less	100
20	130
30	170
40	210
50	250
60	290
70	330

Table 10.27,F-1. Unscarified filter strip width requirements for exposed mineral soil created by filling and grading.

6. All filled or graded areas shall be promptly stabilized to prevent erosion and sedimentation.

Filled or graded areas, including all areas of disturbed soil, within 250 feet of water bodies and wetlands, shall be stabilized according to the Guidelines for Vegetative Stabilization contained in Appendix B of this chapter.